Case 1:08-cv-04533-NRB

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Filed 05/15/2008

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JUDGE BUCHWALD

COWAN, LIEBOWITZ & LATMAN, P.C. 1133 Avenue of the Americas New York, NY 10036 (212) 790-9255 Ronald W. Meister (RM-4313) Attorneys for Plaintiff

08 CIV 4533

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

----- X

TUFENKIAN IMPORT/EXPORT VENTURES, INC.,

Plaintiff,

-against-

GLOBAL ACCENTS, INC. and DANNY PARTIELLI,

Defendants.

Civil Action No.

COMPLAINT FOR COPYRIGHT INFRINGEMENT

JURY TRIAL DEMANDED

Plaintiff, Tufenkian Import/Export Ventures, Inc., by its attorneys, Cowan, Liebowitz & Latman, P.C., for its complaint, alleges:

1. This is an action for copyright infringement brought pursuant to the Copyright Act of 1976.

Parties

- 2. Plaintiff Tufenkian Import/Export Ventures, Inc. ("Tufenkian") is a New York corporation with its principal place of business at 919 Third Avenue, New York, NY 10022.
- 3. Plaintiff is one of the world's leading designers and suppliers of handmade Tibetan and Armenian carpets.

- 4. On information and belief, defendant Global Accents, Inc., is a California corporation with its executive offices at 19808 Normandie Avenue, Torrance, California 90502.
- 5. On information and belief, defendant Global Accents, Inc. maintains a sales representative in New York State to promote sales to its customers in New York State.
- 6. On information and belief, defendant Global Accents, Inc. sells carpets, including carpets that infringe plaintiff's copyrighted designs, from retail stores throughout the New York Metropolitan area, and from the Decoration and Design ("D&D") Building, located at 979 Third Avenue, New York, New York.
- 7. Upon information and belief, defendant Global Accents, Inc. sells carpets, including carpets that infringe plaintiff's copyrighted designs, through an interactive website located at www.globalaccents.net.
- 8. Upon information and belief, defendant Danny Partielli is a resident of California and President and sole officer of defendant Global Accents, Inc.
- 9. As the principal and only officer of defendant Global Accents, Inc., defendant Partielli has directed the infringing activities alleged in this complaint and is personally responsible for its actions.

Jurisdiction

- 10. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338. Venue is proper under 28 U.S.C. § 1391(b) and (c).
- 11. On information and belief, defendants are doing business in this judicial district, have engaged in infringing activities in this district that injure plaintiff in this district, or are otherwise subject to personal jurisdiction in this district, and a substantial part of the events giving rise to this claim occurred in this district.

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CLAIM FOR COPYRIGHT INFRINGEMENT

Plaintiff's Designs

- 12. In 1985, Tufenkian began producing high-quality Tibetan carpets that integrate classic Tibetan weaving craft, Himalayan wool and modern Western designs and colors. Each Tufenkian carpet is hand-crafted in Nepal, and requires, on average, several thousand hours of labor to produce.
- 13. Plaintiff's Tibetan carpets have received considerable laudatory publicity and have been the subject of articles appearing in House & Garden Magazine, House Beautiful, Contract Design, Elle, The Journal of Commerce and Home Accents Today, among other publications.
- 14. Tufenkian carpets are widely sold and advertised throughout the United States and internationally, in showrooms, via catalogues and over the Internet.
- 15. Beginning in or around 2003, Tufenkian created and began to sell the following carpets with original designs, each of which has been registered in plaintiff's name at the United States Copyright Office, as follows:
 - (a) "Total Eclipse," registration number VA 1-253-677;
 - (b) "Igloo," registration number VA 1-253-680;
 - (c) "Slipped Blocks," registration number VA 1-253-681; and
 - (d) "Towering Blocks," registration number VA 1-253-676.
- 16. The effective date of each of these registrations is March 28, 2004. Copies of the Certificates of Registration are attached hereto as Exhibit A. Copies of plaintiff's designs are attached hereto as Exhibit B.

Defendants' Designs

- Defendant Global Accents is, on information and belief, a manufacturer, importer 17. and distributor of decorative floor coverings.
- 18. On information and belief, defendant Global Accents' customer base extends throughout the United States.
- 19. Defendant Global Accents offers for sale a "Himalaya Collection" of carpets with designs substantially similar to plaintiff's copyrighted designs, as follows:
 - (a) Defendants' "Horizon" design is substantially similar to plaintiff's copyrighted "Total Eclipse" design.
 - (b) Defendants' "Panorama" design is substantially similar to plaintiff's copyrighted "Igloo" design.
 - Defendants' "Landscape" design is substantially similar to plaintiff's (c) copyrighted "Slipped Blocks" design.
 - (d) Defendants' "Terrace" design is substantially similar to plaintiff's copyrighted "Towering Blocks" design.

Copies of defendants' designs are attached hereto as Exhibit C.

- 20. On information and belief, prior to creation of their "Horizon" design, defendants and their designers had knowledge of plaintiff's copyrighted "Total Eclipse" design.
- 21. On information and belief, prior to creation of their "Panorama" design, defendants and their designers had knowledge of plaintiff's copyrighted "Igloo" design.
- 22. On information and belief, prior to creation of their "Landscape" design, defendants and their designers had knowledge of plaintiff's copyrighted "Slipped Blocks" design.

- Page 5 of 23
- On information and belief, prior to their creation of their "Terrace" design, 23. defendants and their designers had knowledge of plaintiff's copyrighted "Towering Blocks" design.
- 24. Defendants' "Horizon" design is an unauthorized copy of plaintiff's "Total Eclipse" design.
- 25. Defendants' "Panorama" design is an unauthorized copy of plaintiff's "Igloo" design.
- 26. Defendants' "Landscape" design is an unauthorized copy of plaintiff's "Slipped Blocks" design.
- 27. Defendants' "Terrace" design is an unauthorized copy of plaintiff's registered "Towering Blocks" design.
- 28. On information and belief, defendants' infringing acts alleged herein were committed willfully and with knowledge of plaintiff's designs.
- 29. Defendant's infringing acts alleged herein were performed without the permission, license or consent of Tufenkian.
- 30. As a consequence of defendants' infringing activity, plaintiff has suffered, and will continue to suffer irreparable injury unless defendants are enjoined from engaging in their infringing activities.
 - 31. Plaintiff has no adequate remedy at law.

WHEREFORE, plaintiff demands that the Court:

Find that defendants have infringed upon plaintiff's copyrights in its "Towering 1. Blocks," "Igloo," "Total Eclipse" and "Slipped Blocks" carpet designs.

- 2. Permanently enjoin defendants, their officers, agents, employees, and related companies, and all persons acting for, with, by, through, or under them, from manufacturing, copying, reproducing, distributing, advertising, promoting, offering for sale or selling rugs or other products or articles bearing any design identical or substantially similar to Tufenkian's copyrighted "Towering Blocks," "Igloo," "Total Eclipse" or "Slipped Blocks" carpet designs.
- 3. Order defendants, their officers, agents, employees and related companies, and all persons acting for, with, by, through, or under them, to destroy all carpets infringing Tufenkian's copyrighted carpet designs as well as all other infringing materials.
- 4. (a) Award to plaintiff its actual damages incurred as a result of defendants' acts of infringement, and all profits defendants realized as a result of their acts of infringement, in amounts to be determined at trial; or
- In the alternative, award to plaintiff, pursuant to 17 U.S.C. § 504, statutory (b) damages for each act of infringement committed by defendants;
- Award to plaintiff its costs and attorneys' fees it incurred as a result of 5. defendants' acts of infringement; and
- Grant such other and further relief as the Court deems necessary and proper under 6. the circumstances.

Dated: New York, New York May 15, 2008

Respectfully submitted,

COWAN, LIEBOWITZ & LATMAN, P.C.

Ronald W. Meister (RM-4313)

1133 Avenue of the Americas

New York, New York 10036-6799

(212) 790-9255

Attorneys for Plaintiff





Narybeth Geters

Register of Copyrights, United States of America

UNITED STATES COPYRIGHT OFFICE

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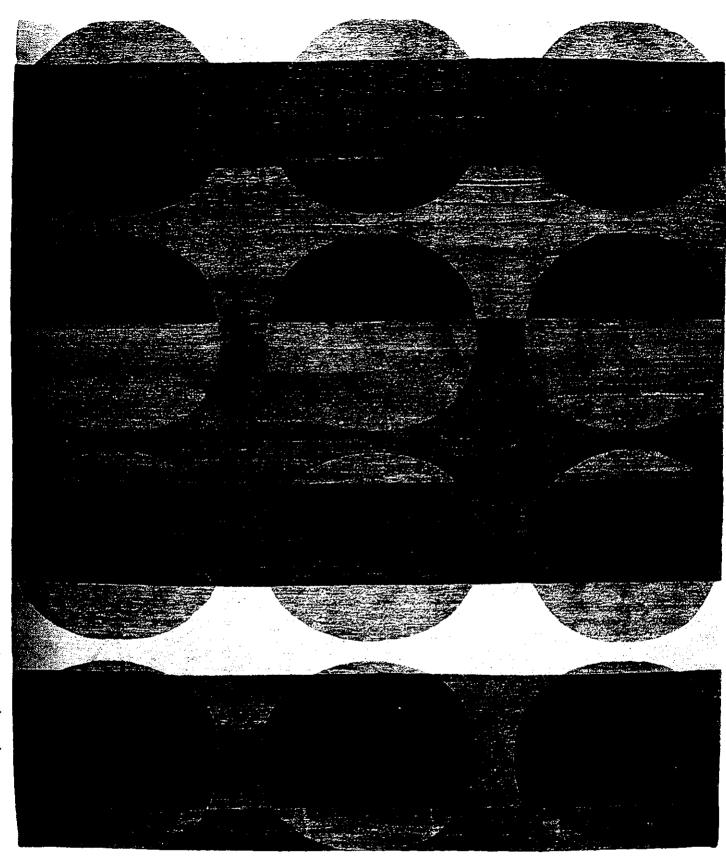
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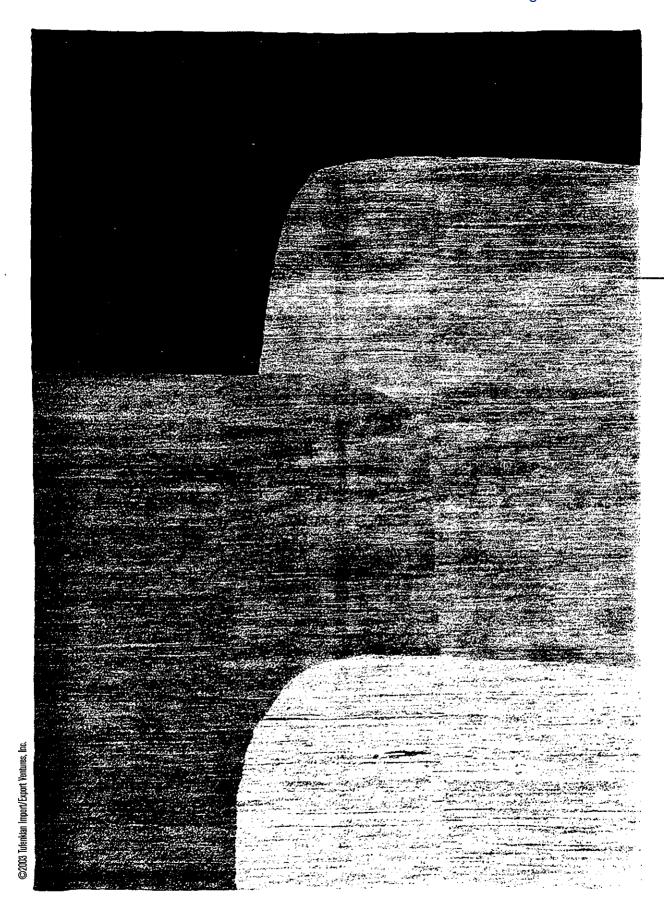
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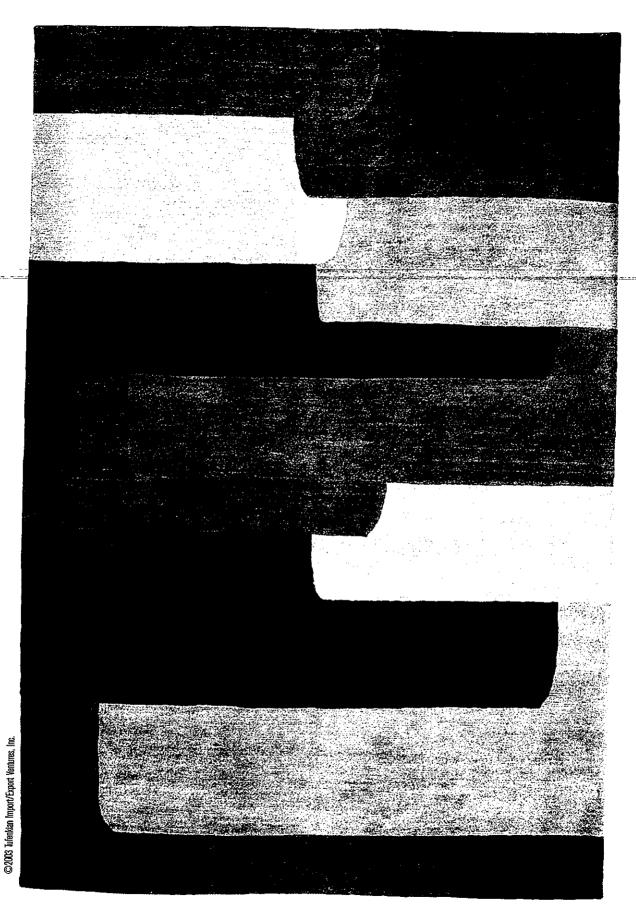
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17.U.S.C. § 508(e) Any person who knowingly, mekes a false representation of a melodal fact in the application for copyright registration provided for by section 409 or in any written statement field inconnection with the application shall be fined not more than \$2,500.

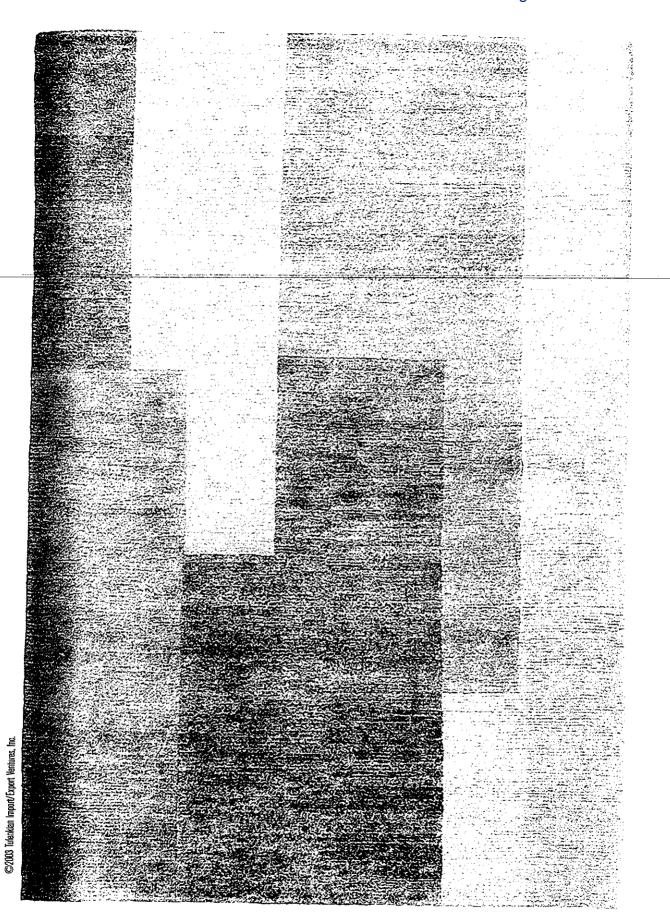




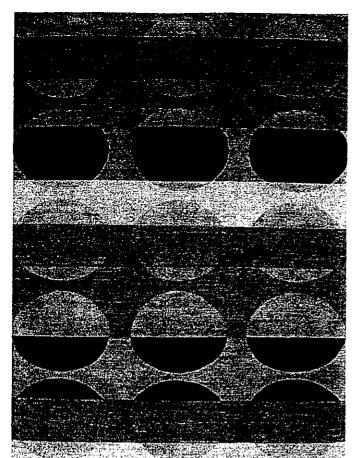
TUFENKIAN TIBETAN CARPETS | Designers' Reserve | Igloo Black Pool | 976 089



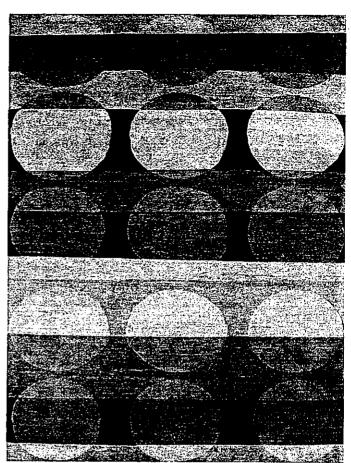
TUFENKIAN TIBETAN CARPETS | Designers' Reserve | Slipped Blocks Suede | 972 249



Case 1:08-cv-04535 Available Sizes: (Approx.) 1'0" x 1'0"; 6'0" x 9'0"; 8'0" x 11'0"; 10'0" x 14'0" Page 22 of 23

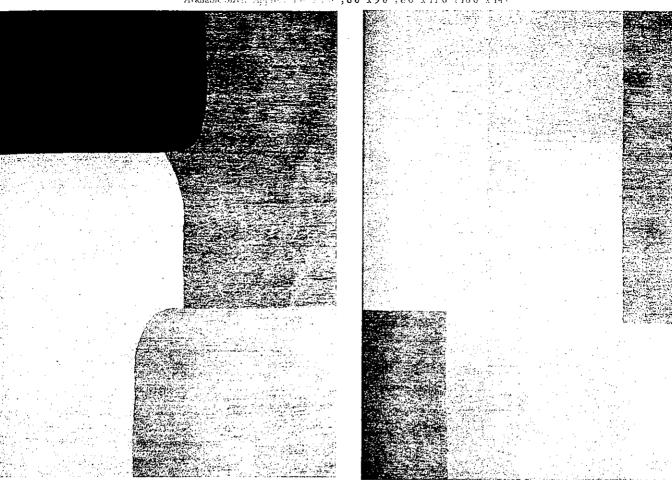


Horizon = 8456 = Black/Beige/Teal

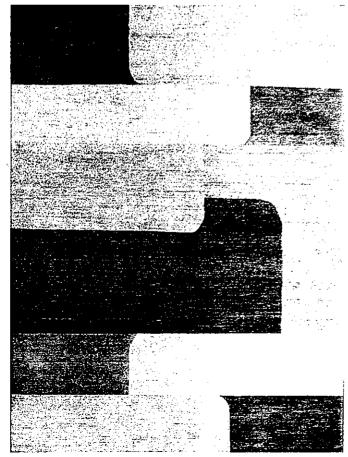


Horizon * 8576 * Ant. Charcoal/Beige/Lt. Brown

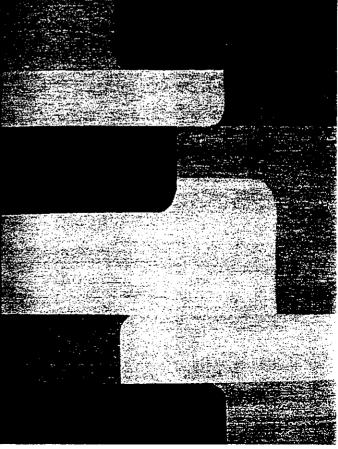
Case 1:08-cv-045333NRV Aborument O Eile 05/15/2008 Page 23 of 23 Available Sizer Approx 1.6 or 1.60°; 60° x 9'0°; 8'0° x 11'0° x 14'0°



Terrace + G8455 + Aqua/Sage



Landscape # G8569 # Yellow 1000



Landscape r GS575 r Beige/Brown